

AO 91 (Rev. 11/11) Criminal Complaint

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10/25/17United States District Court
Southern District of Texas
OCT 25 2017

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States of America
v.
Cristofer Jose GALLEGOS Espinal

Case No.

H17-1620

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 5, 2017 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 2251(a)
18 U.S.C. 2252A(a)(5)(B)

Used, persuaded, induced, or coerced any minor to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct knowing that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer.

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

Complainant's signature

Richard A. Wilfong, HSI SA

Printed name and title

Sworn to before me and signed in my presence.

Date:

10-25-17

Judge's signature

City and state:

Houston, Texas

Stephen Wm. Smith; US Magistrate Judge

Printed name and title

H17-1620

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Richard A. Wilfong, being truly sworn and deposed state,

1. I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations (HSI), assigned to the Office of the Special Agent in Charge, Houston, Texas. I have been so employed since July 1997 with the former U.S. Customs Service, now HSI. I am currently assigned to the Cyber Investigations Group and as part of my daily duties I investigate criminal violations relating to child exploitation and child pornography including violations pertaining to the illegal production, distribution, receipt, and possession of child pornography, in violation of 18 USC §§ 2251 and 2252A. I have received training in the area of child pornography and child exploitation, and I have had the opportunity to observe and review examples of child pornography in various forms of media including computer media. I have also participated in the execution of search warrants; a number of which involved child exploitation and/or child pornography offenses.
2. This affidavit is based on reports your affiant has read and conversations your affiant has had with law enforcement officers and investigators involved in this investigation. This affidavit does not set forth all of my knowledge in this matter, but is intended only to show there is probable cause to believe that Cristofer Jose GALLEGOS Espinal is in violation of Title 18 USC 2251, Sexual exploitation of children and Title 18 USC 2252A(a)(5)(B), Certain activities relating to material constituting or containing child pornography.
3. On September 19, 2017, based on an investigation into alien smuggling, agents assigned to Homeland Security Investigations, Houston, Texas executed a search warrant at a residence in Houston, Texas. Prior to searching the residence, agents recorded a "walk-through" video showing the condition of all the rooms in the residence; to include the garage and the bedrooms. Due to the arrest of the adults at the residence and the presence of several minor children, law enforcement officers contacted 20-year-old Cristopher Jose GALLEGOS-Espinal (hereinafter "GALLEGOS") and asked him to return to the residence and take custody of his siblings; the minor children at the residence.
4. Upon his arrival, GALLEGOS confirmed to officers and agents he resided at the residence in Houston, Texas with his mother and siblings and he could take custody of his siblings. GALLEGOS was asked for consent to search his vehicle and his cellular telephone, to which he agreed and signed a written consent form. GALLEGOS wrote the 12-digit password for his cellular telephone on the consent to search form. The data from GALLEGOS' Apple iPhone 6 Plus, bearing serial

number C39Q3UKUG5QH, was extracted in his presence and the phone was returned to him.

5. On September 22, 2017, while reviewing data obtained from the consensual electronic search of GALLEGOS' cellphone, agents noted three (3) videos which appeared to depict child pornography. In all three videos, an adult male instructs and sometimes physically forces a minor female, approximately 10 years of age (hereinafter referred to as "V1"), to put his erect penis into her mouth.
6. Descriptions of the three (3) videos depicting child pornography are as follows:
 - a. File Name: IMG_2271.MOV
 - i. Dated June 5, 2017, this video depicts V1 in what appears to be the garage of the residence; as identified with the aforementioned "walk-through" video. V1 is fully clothed in a black shirt with pink lettering and blue jeans; she is in the garage with an adult male. The adult male is standing in the garage and directs V1 to engage in oral-genital sexual conduct. The camera's view includes V1 and the adult male's erect penis; his face is never visible.
 - ii. Video length: 1 minute, 34 seconds
 - b. File Name: IMG_2270.MOV
 - i. Dated June 6, 2017, this video depicts V1 fully clothed in a white shirt and gray pants; kneeling in what appears to be the garage of the residence; as identified with the aforementioned "walk-through" video. An adult male is also present in the garage with his exposed and erect penis. The adult male puts his penis in V1's mouth to engage in oral-genital sexual conduct. At video run time 00:51, the adult male asks V1, "Can you go a bit deeper?" At video run time 01:35, with his hand on the back of V1's head, the adult male says, "Let me do it hard." When the adult male forces his penis into V1's mouth, she gags, pulls away and says, "That was too far away."
 - ii. Video length: 2 minutes, 20 seconds
 - c. File Name: IMG_2269.MOV
 - i. Dated July 13, 2017, this video depicts V1 fully clothed in a white shirt with multi-colored lettering and long blue pants in what appears to be a bedroom of the residence; as identified with the aforementioned "walk-through" video. V1 is putting a light blue blanket over her head. An adult male is also in the room and asks her,

“What are you doing?” V1 responds to the male, “Ima cover this part, so you don’t get my face” and covers her head with the blanket.

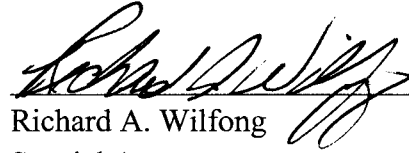
Having engaged in oral-genital sexual conduct, at video run time of 00:41, the adult male directs V1 by saying, “Look at the camera.” A few seconds later, when V1 turns and puts her head down to the floor to hide her face, the adult male says, “Everybody now knows who you are... hurry up.” V1 then sits up and says, “You’re actually doing this to me?” After the adult male again puts his penis in V1’s mouth and she moves her hand to cover her face, the adult male moves her hand and says, “Everybody’s like seen the other (unintelligible).” Near the end of the video, the adult male directs V1 to hold and manipulate his penis while putting it in her mouth. V1 objects saying, “No, why every single time you gotta change the thing? I gotta do this not that.” The adult male responds by repeating, “Hurry up;” he then puts his penis in V1’s mouth.

ii. Video length: 2 minutes

7. On September 29, 2017, HSI agents interviewed V1 who identified herself as the minor female victim in the aforementioned videos and verified her age to have been 10 years old at the time the videos were produced.
8. On October 13, 2017, HSI Special Agent Richard Wilfong applied for and was granted a search warrant for the Apple iPhone 6 Plus believed to be in the possession of Cristofer GALLEGOS.
9. On October 19, 2017, HSI Special Agents Richard Wilfong and Sylvia Snyder interviewed Cristofer GALLEGOS at his place of employment. During the interview, GALLEGOS stated he had been the owner of the Apple iPhone 6 Plus since January 2016. GALLEGOS denied knowledge of the aforementioned child exploitation videos. When agents inquired about the location of his cellphone, GALLEGOS advised it was located at the apartment in which he was staying. After agents ensured the apartment was not occupied, arrangements were made to meet another occupant of the apartment at their first available time. Not finding the cellphone at the apartment, agents waited for GALLEGOS to return to the apartment from work.
10. This same date, upon his return to the apartment, GALLEGOS presented agents with the Apple iPhone 6 Plus which had been “factory reset” (there was no data on the phone and it was not operable).

11. On October 20, 2017, Cristofer GALLEGOS arrived at the HSI Houston office. GALLEGOS agreed to take a polygraph exam to determine the veracity of his previous statement to HSI Special Agents Snyder and Wilfong that he was not the unidentified male in any of the three (3) videos in which the male was engaged in sexually explicit conduct with V1.
12. This same date, prior to meeting with Special Agent/ Polygraph Examiner (SA/PE) Channing Valdez, GALLEGOS requested to speak with Special Agent Richard Wilfong and Marisa Schwartz regarding when he “factory reset” the Apple iPhone 6 Plus. GALLEGOS stated he located the cellphone in his vehicle during his drive from work to the apartment on October 19, 2017. GALLEGOS said he was concerned about material regarding other criminal activity that agents would find on the phone and “factory reset” it.
13. This same date, in preparation for the polygraph examination, GALLEGOS stated to SA/PE Valdez that he understood and could read and write in the English language. GALLEGOS was read and provided with his Miranda Rights by SA/PE Valdez. GALLEGOS stated he understood and signed his Statement of Rights; agreeing to speak with SA/PE Valdez.
14. This same date, during the post-polygraph interview with SA/PE Valdez, GALLEGOS admitted he was the unidentified male in the video described above in paragraph 6b. Having not been shown the video, GALLEGOS stated the video had been recorded in the garage of residence. This is consistent with the setting of that video. GALLEGOS stated he did record the sexual assault on his cell phone but he thought he had deleted it.
15. On October 25, 2017, GALLEGOS agreed to speak to HSI Special Agents Snyder and Wilfong to clarify his previous statement. At this time, GALLEGOS admitted that he was the unidentified male in the other two videos described above in paragraph 6a and 6c.

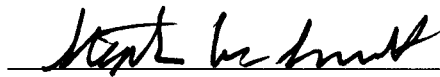
16. Due to all of the information set forth above, your affiant believes there is probable cause to believe that from on or about June 5, 2017, through October 20, 2017, Cristofer Jose GALLEGOS Espinal was in violation of Title 18 USC 2251, Sexual exploitation of children and Title 18 USC 2252A(a)(5)(B), Certain activities relating to material constituting or containing child pornography.



Richard A. Wilfong
Special Agent
Homeland Security Investigations

SUBSCRIBED and SWORN

Before me this 25th day of October 2017



Stephen Wm. Smith
United States Magistrate Judge
Southern District of Texas